

# LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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**DATE:** MARCH 6, 2006  
**FROM:** MICHAEL TUERPE, LAFCO Analyst  
**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT: Agenda Item #7B:** LAFCO 2988 – Annexation to Crestline-Lake Arrowhead Water Agency

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## **INITIATED BY**

Agency Resolution, Crestline-Lake Arrowhead Water Agency

## **RECOMMENDATION**

Staff is recommending that the Commission approve LAFCO 2988 by taking the following actions:

1. With respect to environmental review:
  - a. Certify that the Final Environmental Impact Report (EIR) and other related documents adopted by Crestline-Lake Arrowhead Water Agency (CLAWA) for the Snow Valley Annexation and Facility Improvements project (State Clearinghouse No. 2003121105) have been independently reviewed and considered by the Commission, its staff, and its Environmental Consultant;
  - b. Determine that the Final EIR for the Snow Valley Annexation and Facility Improvements project adopted by CLAWA is adequate for the Commission's use as a CEQA responsible agency for its determinations related to LAFCO 2988;
  - c. Determine that the Commission does not intend to adopt alternatives or mitigation measures for this project; that the mitigation measures identified in CLAWA's environmental documents are the responsibility of the CLAWA and others, not the Commission;

- d. Adopt the Candidate Findings of Fact and Statement of Overriding Considerations as prepared by the Commission's Environmental Consultant, as attached to the staff report; and
  - e. Direct the Clerk of the Commission to file a Notice of Determination within (5) days for this action as a CEQA responsible agency.
2. Approve LAFCO 2988 with the standard conditions of approval.
  3. Waive protest proceedings, as permitted by Government Code Section 56663(c), with 100% landowner consent and no opposition by subject agencies.
  4. Adopt LAFCO Resolution #2911 setting forth the Commission's findings, determinations, and conditions of approval.

## **BACKGROUND**

LAFCO 2988 is a proposal initiated by the Crestline-Lake Arrowhead Water Agency (CLAWA) at the request of the operator of the Snow Valley Mountain Ski Resort (Snow Valley) to expand CLAWA's boundaries by approximately 1,235 +/- acres. This proposal, in conjunction with LAFCO 2987 (sphere amendment) supports the construction of a pipeline and related improvements in order for CLAWA to provide Snow Valley with a supplemental source of water for snowmaking purposes. The requirement for annexation is due to restrictions in CLAWA's State Water contract, which states that it is unable to provide water to Snow Valley unless it is first annexed into CLAWA's boundaries. The extension of an approximately 2.5 mile pipeline will allow a reliable source of water for Snow Valley's use to make artificial snow which will reduce the resort's dependence on inadequate winter precipitation, allowing the resort to remain economically viable.

The process to receive a supplemental source for snowmaking began in 1998 with discussions between CLAWA, Snow Valley, and the United States Forest Service. In August 2000, CLAWA prepared and circulated a draft Mitigated Negative Declaration to interested parties. During the public hearings, objections were raised that the proposed mitigation measures were not adequate to reduce environmental impacts to less than significant levels. CLAWA drafted an Environmental Impact Report (EIR) in June 2004 to:

1. Cover all topics required by CEQA,
2. Address the environmental impacts associated with the pipeline construction,
3. Address the objections raised from the public, and

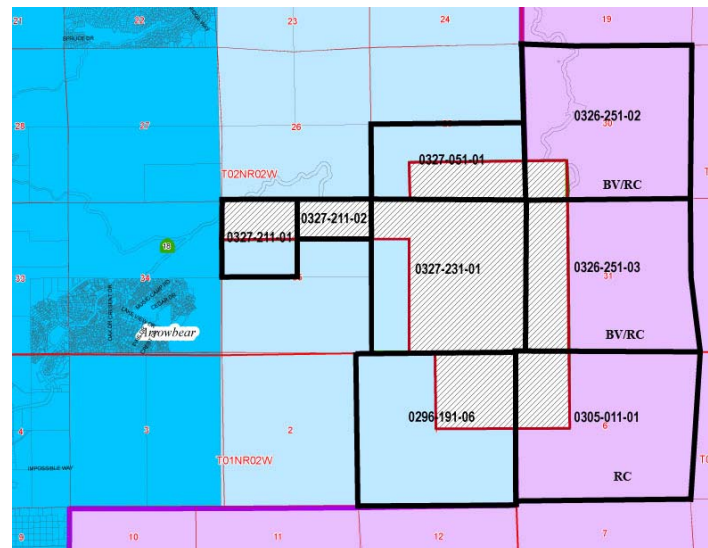
4. Provide a comprehensive assessment of the individual and cumulative impacts associated with all aspects of the project.

Through this review and consultation process, the boundaries of the proposal were determined. The study area is located in the San Bernardino National Forest and is generally located northwest of the community of Arrowbear, southeast of the community of Green Valley Lake, and north and south of State Highway 18. Location and vicinity maps are included as Attachment #1.

## **BOUNDARIES**

The proposed annexation includes the entirety of Snow Valley and portions of the public roadways within this area, namely State Highway 18. This annexation as configured splits seven parcels and is, therefore, inconsistent with State policy which directs boundaries to conform with lines of assessment or ownership (Gov. Code §56375). The Commission can override State law if it deems that there is a rationale to do so, and staff believes the following information supports overriding this restriction. Figure 1 below illustrates the existing parcelization of the area and the boundaries proposed for LAFCO 2988, noting that the only whole parcel within the application is APN 0327-211-02.

**Figure 1. Map of the Proposed Annexation Identifying Parcels**



**Figure 2. Snow Valley within the Annexation Area**  
(Snow Valley, as illustrated, is an approximation)

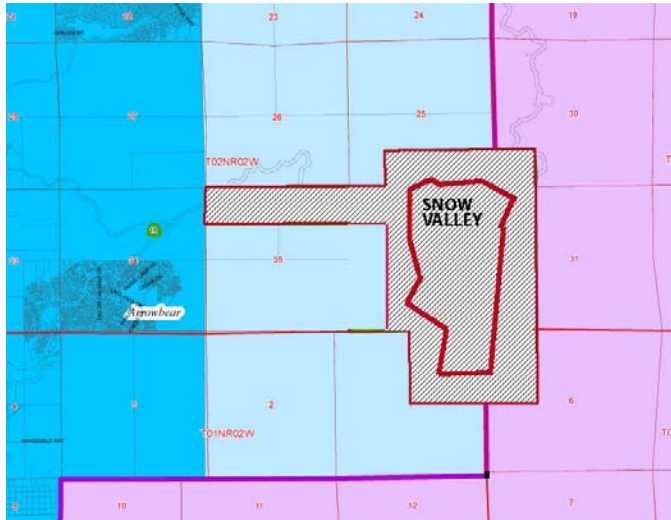


Figure 2, on the left, illustrates the location of Snow Valley within the boundaries of LAFCO 2988. The graphic illustrates that the annexation has been defined to include only the area sufficient to extend the pipeline to Snow Valley, and the entirety of Snow Valley itself. The boundaries have been defined through an arduous review process to include only what is necessary for service, thereby insuring the preservation of the National Forest lands surrounding the area. Therefore, the

annexation only includes portions of parcels within the boundary.

Therefore, LAFCO staff believes that the annexation, as presented, provides for a serviceable boundary given the constraints of the National Forest and allows for the extension of water service to only that area included within Snow Valley. The Forest Service as the owner and the County Assessor have no objection to the boundaries as proposed splitting lines of assessment. A copy of the Forest Service letter is included as a part of Attachment #2.

## **LAND USE**

The entire annexation area is within the San Bernardino National Forest and is owned by the United States Government. The proposed project is consistent with the San Bernardino National Forest Land and Resource Management Plan, which recognizes Snow Valley as a permitted use in the National Forest, and County of San Bernardino General Plan.

The existing land uses within the area consist of vacant National Forest lands, the recreational and commercial uses of Snow Valley, and some scattered cabins and TV and cell phone towers. The County has assigned an Improvement Level 5 designation to the entire area. This designation applies to areas with little or no development potential and where only sparse development is expected in the long term. The land use designation assigned is Resource Conservation. Specifically, the five western parcels are in the Hilltop Community Plan area and are designated Hilltop Resource Conservation (HT/RC). The three eastern parcels are in the Bear Valley Community Plan area and are designated Bear Valley Resource Conservation (BV/RC) and Resource Conservation (RC). Despite this division, the project is consistent with the goals and policies of both community plans by promoting economic

development that is compatible with the mountain character of these communities.

### **SERVICE ISSUES**

As a part of the application, CLAWA has submitted a Plan for Service, as required by law. As a part of the service extension negotiations, CLAWA and Snow Valley have entered into a pre-annexation agreement outlining the responsibilities of each party. The plan and the agreement are included for Commission review as Attachment #3. In general, the plan and the agreement identify the following:

1. The purpose of this annexation proposal is to provide Snow Valley with a resource for supplemental water for artificial snowmaking purposes not to exceed 150 acre feet per year.
2. The water service proposed would be made interruptible in the event CLAWA requires the water for other uses and is proposed to be delivered during the ski season when CLAWA has the least demand. The water to be sold would be for snowmaking purposes only; it is not intended for potable use.

The materials provided in the application indicate that the level of service anticipated can be provided by CLAWA.

### **Construction and Annexation Costs**

Provision of the service, as outlined in the pre-annexation agreement, will require CLAWA to construct and install, for exclusive use by Snow Valley, a metered water service turnout with a capacity of 350 gallons per minute at or near Green Valley Lake Road, northerly of the community of Arrowbear. Snow Valley is required to deposit with CLAWA an amount equal to its estimated cost of designing, constructing, and installing the turnout. The maintenance and liability of the turnout shall be the responsibility of CLAWA.

Pursuant to the terms of the pre-annexation agreement, Snow Valley shall pay for, install, own, and maintain the pipeline facilities connected to the turnout and a backflow prevention assembly to protect against backflow into CLAWA's potable water system. A 2.5 mile pipeline will be extended from CLAWA's turnout in Arrowbear, across Forest Service land, for delivery of water to Snow Valley. As a privately owned water conveyance system, no additional connections are anticipated.

The terms of the pre-annexation agreement stipulate that Snow Valley is to pay an annexation fee in the amount of \$153,250, any conditional fees imposed by

LAFCO, any expenses incurred complying with any State and Federal environmental laws or regulations, and all expenses incurred for processing and completing the proposed annexation. The estimated cost of extending the service, not including administrative costs, is expected to be \$1.25 million.

#### Fees, Standby Charges, and Taxes

Upon successful completion of LAFCO 2988, CLAWA will charge Snow Valley the standard rates and charges for the purchase of water at wholesale cost. No other interest within the annexation area will be charged for this service.

In addition, the annexation territory will be subject to the levy of CLAWA's standby charges following successful completion of the proposal. The current standby charge, adopted by CLAWA, is assessed by parcel or possessory interest and is calculated as \$30 for the first acre and \$5 for each additional acre. Pursuant to existing CLAWA policies, parcels not connected to a water system do not pay the annual standby charge, but the charges are deferred until a water connection is provided. At the time of water service connection, all deferred standby charges become due and payable.

LAFCO staff has reviewed the question of the extension of the existing special tax charged by CLAWA for payment of its share of the State Water Project with CLAWA staff. CLAWA staff has identified that this tax will be extended to the annexation territory and will be included on the annual tax bill for each parcel and/or possessory interest. The voters within CLAWA approved this special tax during the 1960's for payment of its share of the facilities to bring State project water to Southern California. The amount of this tax varies from year-to-year, based upon the annual cost determined by the State Department of Water Resources billed to CLAWA. The 2005-06 rate is five cents per \$100 of assessed value. Table 1, which follows, identifies the anticipated charges had the territory been a part of the District during the current tax year:

**Table 1: Possessory Interests**

Interest	Parcel	Assessed Value	Estimated Annual Payment for State Water Project
ABC Holding Co Inc	0296-191-06 P004	\$191,268	\$95.63
ATC Holding Inc	0296-191-06 P002	\$54,637	\$27.32
Best, Robert	0327-051-01 W002	\$26,317	\$13.16
Davision, Lynn	0327-051-01 W007	\$76,479	\$38.24
Figueroa, Tammy	0327-051-01 W001	\$38,652	\$19.33
Helter Skelter Ski Club	0327-051-01 W006	\$24,145	\$12.07
Lee M Tingler Family Trust	0327-051-01 W010	\$20,298	\$10.15
Pacjets Financial LTD	0327-051-01 L006	\$342,626	\$171.31
Packett, Roger	0327-051-01 W011	\$13,953	\$6.98
Phelps, Kenneth	0327-051-01 W005	\$128,600	\$64.30
Sierra Club	0327-051-01 W008	\$15,332	\$7.67
Snow Valley Inc	0327-051-01 W003	\$2,492,000	\$1,246.00
Snow Valley LLC	0327-051-01 P003	\$5,048,882	\$2,524.44
Snow Valley Ski Club	0327-051-01 W009	\$18,960	\$9.48
Snowdrift Winter Playground Inc	0327-231-01 P000	\$71,319	\$35.66
Snowdrift Winter Playground Inc	0327-231-01 W001	\$23,052	\$11.53
Stoke, Jeffery	0327-051-01 W004	\$9,189	\$4.59
<b>Total</b>		<b>\$8,595,709</b>	<b>\$4,297.85</b>

### Possessory Interests

Although the land within the application is United States government land and is exempt from taxation, there are possessory interests attached on three of the parcels within the application. Table 1 above outlines these interests. A possessory interest is an attached or permitted use of value on another's property, such as a billboard on a private owner's land. All possessory interests are assessed by the County Assessor and pay property taxes. The total assessed value of the possessory interests (land, improvements, and personal property value) for the parcels within LAFCO 2988 is \$8,595,709.

As detailed above, upon annexation all possessory interests within the area will be charged the following:

1. Annual standby charges (\$30 for the first acre and \$5 for each additional acre). It is not known at this time what the estimated payments will be or which interests will have these charges deferred.
2. An annual tax based on assessed value at the rate of five cents per \$100 for CLAWA's share of the State Water Project.

The Plan for Service as presented indicates that service was expected to be extended by Fall of 2005. However, based upon complications in processing

the EIR and the need for annexation, an updated estimate is to begin construction in Summer/Fall 2006.

## **ENVIRONMENTAL**

On November 4, 2004, acting as CEQA lead agency, CLAWA certified the Final EIR for the Snow Valley Annexation and Facility Improvements project and adopted a Findings of Fact and a Statement of Overriding Considerations. LAFCO staff and LAFCO Environmental Consultant have participated throughout the environmental process, having responded to the Notice of Preparation of the EIR and commenting on the Draft EIR.

The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed CLAWA's Final EIR and determined that it is adequate for the Commission's use as a CEQA responsible agency. A copy of CLAWA's Final EIR and Findings of Fact and Statement of Overriding Considerations was provided to Commission members on February 15, 2006. In addition, Mr. Dodson has provided a Candidate Findings of Fact and Statement of Overriding Considerations for the Commission's use. Mr. Dodson's report and Candidate Findings of Fact and Statement of Overriding Considerations are included as Attachment #4. The necessary actions to be taken by the Commission, as a CEQA responsible agency, include the following:

1. Indicate the Commission has independently reviewed and considered CLAWA's Final EIR, Candidate Findings of Fact and Statement of Overriding Considerations, and related actions by CLAWA.
2. Determine that the Final EIR for the Snow Valley Annexation and Facility Improvements project is adequate for the Commission's use in making its decision related to the annexation.
3. Indicate that it does not intend to adopt alternatives or mitigation measures for this project. Mitigation measures were required in the Final EIR to address potential significant impact issues. However, because the Commission does not have responsibility for these measures, the Commission will not adopt any alternatives or mitigation measures for this action.
4. Adopt the Candidate Findings of Fact and Statement of Overriding Considerations as presented by the LAFCO Environmental Consultant.
5. Direct the Clerk to file a Notice of Determination within five days for this action as a CEQA responsible agency.



## **LANDOWNER CONSENT**

The Registrar of Voters has verified that the study area is legally uninhabited, and the County Assessor's Office has verified that the study area possesses 100 percent landowner consent to annexation (included as a part of Attachment #2). To date, staff has not received any written opposition to a waiver of protest proceedings from subject agencies on the proposal; however, this finding will be updated at the hearing. Thus, the Commission may waive the protest proceedings pursuant to Government Code 56663(c). Staff recommends that the Commission approve this proposal, waive further protest proceedings, and direct the Executive Officer to complete the action unless written objection to such a waiver is received.

## **FINDINGS**

The following findings are required to be provided by Commission policy and Government Code Section 56668 for any change of organization/reorganization proposal:

1. The Registrar of Voters has determined that the study area is legally uninhabited, containing zero registered voters as of November 2, 2005.
2. The County Assessor has determined that the value of land within the annexation area is exempt from taxation and that 100 percent of the landowners have consented to the annexation. Possessory interests on lands within the annexation area total \$8,595,709 (\$2,804,489 land, \$1,202,609 improvements, \$4,588,611 personal property value).
3. The area is within the sphere of influence assigned the Crestline-Lake Arrowhead Water Agency as modified through approval of LAFCO 2987.
4. Legal advertisement of the Commission's consideration has been provided through publications in *The Alpenhorn News* and *The Sun*, newspapers of general circulation in the area.
5. Individual notice has been provided to landowners within the area (totaling four), and to all registered voters and landowners located within roughly 1,350 feet of the exterior boundaries of the area (totaling 17) in accordance with State law and adopted Commission policies. To date, no comments or opposition has been received. Copies of the Staff Report have provided to the owners of the possessory interests within the study area.

6. The County has assigned land use designations for the area as follows: Bear Valley Resource Conservation (BV/RC), Hilltop Resource Conservation (HT/RC), and Resource Conservation (RC). The proposed project is consistent with the plans and policies of the San Bernardino National Forest, County of San Bernardino General Plan, and the Bear Valley and Hilltop Community Plans.
7. The Commission's Environmental Consultant, Tom Dodson and Associates, has reviewed CLAWA's Final EIR and determined that it is adequate for the Commission's use as a CEQA responsible agency. In addition, Mr. Dodson has provided a Candidate Findings of Fact and Statement of Overriding Considerations for the Commission's use. The necessary actions to be taken by the Commission, as a CEQA responsible agency, are outlined in his report to the Commission and in the material above. Mr. Dodson's report and Candidate Findings of Fact and Statement of Overriding Considerations are included as Attachment #4.
8. The area in question is presently served by the following local agencies:
  - County of San Bernardino
  - County Service Area 38 (fire)
  - County Service Area 70 (multi-function)
  - Inland Empire Resource Conservation District (portion)
  - Mojave Desert Resource Conservation District (portion)
  - Rim of the World Recreation and Park District (portion)
  - San Bernardino Mountains Community Hospital District (portion)

None of these agencies will be affected by this proposal.
9. CLAWA has submitted a "Plan for Service" as required by law that indicates that the District can provide the level and range of selected services anticipated for the Snow Valley area.
10. The study area related to the Snow Valley Mountain Ski Resort will benefit from the availability and extension of a supplemental source of non-potable water from CLAWA for snowmaking purposes.
11. The County of San Bernardino adopted a resolution determining this action does not require any transfer of property taxes. This resolution fulfills the requirement of Section 99 of the Revenue and Taxation Code.
12. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

## **CONCLUSION**

LAFCO 2988 represents a reasonable expansion of the Crestline-Lake Arrowhead Water Agency's boundaries in order to provide Snow Valley Mountain Ski Resort with a supplemental water source for snowmaking purposes. For all the reasons identified within this report, staff recommends approval of LAFCO 2988.

### Attachments:

1. Location and Vicinity Maps
2. Forest Service Letter of Consent, Landowner Consent Form, and Snow Valley Special Use Permit
3. Application and Plan for Service Submitted by Crestline-Lake Arrowhead Water Agency, and Pre-Annexation Agreement between Crestline-Lake Arrowhead Water Agency and Snow Valley Mountain Ski Resort
4. Response from the Commission's Environmental Consultant, Tom Dodson and Associates, and Findings of Fact and Statement of Overriding Considerations
5. Draft Resolution #2911